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BY U.S. CERTIFIED MAIL

March 23, 2015

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Attorney General
U.S. Department of Justice
Citizen Suit Coordinator
Room 2615
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: *California Communities Against Toxics v. City of Los Angeles, et al*;
Case No. 2:14-cv-03609-AB-JC – Settlement Agreement; 45-day review

Dear Citizen Suit Coordinators,

On March 23, 2015, the parties in the above-captioned case entered into a settlement agreement setting forth mutually agreeable settlement terms to resolve the matter in its entirety. Pursuant to the terms of the settlement agreement and 40 C.F.R. § 135.5, the enclosed settlement agreement is being submitted to the United States Environmental Protection Agency and the U.S. Department of Justice for a 45-day review period. If you have any questions regarding the settlement agreement, please feel free to contact me or counsel for Defendants listed below. Thank you for your attention to this matter.

Sincerely,

Douglas J. Chermak
Attorney for Plaintiff California Communities Against Toxics

cc via First Class Mail: Jared Blumenfeld, Regional Administrator, EPA Region 9
Nicole Granquist, Counsel for Defendant, City of Los Angeles

Encl.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims ("Agreement") is between California Communities Against Toxics ("CCAT" or "Plaintiff") and the City of Los Angeles (on behalf of named Defendants, the City of Los Angeles and the Bureau of Sanitation of the City of Los Angeles) ("City") (individually, a "Settling Party" and collectively, the "Settling Parties").

I. RECITALS

WHEREAS, CCAT is an unincorporated, non-profit association dedicated to working with communities to advocate for environmental justice and pollution prevention. Jane Williams is the Executive Director of CCAT;

WHEREAS, the City operates and maintains the Central Los Angeles Recycling and Transfer Station located at 2201 E. Washington Boulevard in Los Angeles, California (the "Facility"). The Facility is regulated by National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, State Water Resources Control Board Water Quality Order No. 91-13-DWQ (as amended by Water Quality Order 92-12 DWQ and 97-03-DWQ) ("General Permit"), issued pursuant to Section 402 of the Federal Water Pollution Control Act (the "Clean Water Act" or the "Act"), 33 U.S.C. § 1342. Beginning July 1, 2015, the General Permit will terminate and the Facility will be regulated by NPDES Permit No. CAS000001, NPDES General Permit for Storm Water Discharges Associated With Industrial Activities, State Water Resources Control Board Water Quality Order No. 2014-0057-DWQ ("2015 General Permit"), issued pursuant to the Act. A site map for the Facility is attached hereto as Exhibit A;

WHEREAS, on February 28, 2014, CCAT provided the City, the Administrator and the Regional Administrator for Region IX of the United States Environmental Protection Agency

(“EPA”), the Executive Director of the California State Water Resources Control Board (“State Board”), and the Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region (“Regional Board”) with a Notice of Violations and Intent to File Suit (“Notice Letter”) under Section 505 of the Act, 33 U.S.C. § 1365;

WHEREAS, on May 9, 2014, CCAT filed a complaint against the City in the United States District Court for the Central District of California, *CCAT v. City of Los Angeles, et al.* (USDC, C.D. Cal., Case No. 2:14-cv-03609-AB-JC)) (“Complaint”). A true and correct copy of the Complaint, including the Notice Letter, is attached hereto as Exhibit B;

WHEREAS, the City denies all of CCAT’s allegations and claims in the Notice Letter and Complaint, and denies that CCAT is entitled to the relief requested in the Complaint;

WHEREAS, the Settling Parties, through their authorized representatives and without either adjudication of CCAT’s claims or admission by the City of any alleged violation or other wrongdoing, intend by this Agreement to resolve in full CCAT’s allegations in the Notice Letter and Complaint and avoid the cost and uncertainties of litigation;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Settling Parties hereby agree as follows:

II. JURISDICTION AND VENUE

1. CCAT alleges that:
 - a) the Central District Court of California has jurisdiction over the subject matter of the claims asserted by CCAT in the Complaint pursuant to Sections 309 and 505(a)(1) of the Clean Water Act, 33 U.S.C. §§ 1319 and 1365, and 28 U.S.C. §§ 1331, 2201, 2202, and
 - b) venue for CCAT’s Complaint is proper in the Central District Court of California pursuant to Sections 309(b) and 505(c) of the Clean Water Act, 33 U.S.C.

§§ 1319(b), 1365(c), and 28 U.S.C. §§ 1391(b) and (c).

2. The City denies CCAT's allegations, but for purposes of settlement, the Settling Parties waive all objections that they may have to the District Court's ability to retain jurisdiction over the Settling Parties and this Agreement as specified in Section VIII of this Agreement.

III. EFFECT OF AGREEMENT

3. CCAT does not, by its consent to this Agreement, or by concurrence with or failure to object to any activity undertaken by the City pursuant to this Agreement, warrant or aver in any manner that the City's compliance with this Agreement will constitute or result in compliance with any Federal, State, or local law or regulation. Nothing in this Agreement will be construed to affect or limit in any way the obligation of the City to comply with all applicable Federal, State and local laws and regulations governing any activity required or addressed by this Agreement.

4. This Agreement and any payment made pursuant to this Agreement will not constitute evidence or be construed as a finding, adjudication, or acknowledgement of any fact, law, or liability by the Settling Parties. This Agreement and any payment made under this Agreement will not be construed as an admission of violation of any law, rule, regulation, permit, or administrative order by the City. However, this Agreement and/or any payment pursuant to the Agreement may constitute evidence solely during dispute resolution or in other actions by either Settling Party seeking to enforce compliance with this Agreement. Except as otherwise provided in this Agreement, each Settling Party maintains and reserves any and all defenses and claims that it may have to any alleged violations that may be raised by the other Settling Party during the life of this Agreement.

IV. EFFECTIVE DATE AND TERMINATION DATE

5. The term "Effective Date," as used in this Agreement, means the day the District Court enters an order granting the Settling Parties' stipulation to dismiss Plaintiff's claims with

prejudice described in Section VIII of this Agreement.

6. The term “Termination Date,” as used in this Agreement, means either December 16, 2016, or, if occurring at a later date, through the conclusion of any formal dispute resolution process prescribed in Paragraph 20 of this Agreement or until the completion of any payment required by this Agreement.

V. CITY’S COMMITMENT AT THE FACILITY

7. Compliance with General Permit, 2015 General Permit & Clean Water Act. Upon the Effective Date, and throughout the term of this Agreement, the City will operate the Facility in compliance with the applicable requirements of the General Permit, the 2015 General Permit when applicable, and the Clean Water Act, subject to any defenses available under the law and recognizing the actions described below.

8. City’s Implementation of Specific Storm Water Best Management Practices at the Facility.

a. Installation of New Storm Water Management System: By October 1, 2016, the City shall implement the following measures to filter and capture storm water discharges from the Facility. Most of these new measures are depicted on a revised map of the Facility, attached hereto as Exhibit C:

- i. The City shall install two new below-grade detention basins that will capture the flows determined in accordance with the City of Los Angeles Low Impact Development (“LID”) Ordinance (Ordinance No. 181899) and the City of Los Angeles Standard Urban Stormwater Management Plan (“SUSMP”). Per the LID Ordinance and SUSMP requirements, the 0.75 inch storm event has been used to determine the flows required to be captured from an 85th percentile, 24 hour runoff event. The total discharge from the Facility during such an event is

calculated to be 2.16 cubic feet per second (“cfs”). The storage capacity for the detention basins shall be at least 862 cubic feet for the smaller detention basin and 5,810 cubic feet for the larger detention basin.

- ii. The City shall regrade the entire site and implement new drop inlets throughout the site to ensure that all storm water flows at the Facility are captured by the Facility’s storm water management system and enter one of the two detention basins.
- iii. To filter all storm water before it enters one of the detention basins, at all drop inlets at the Facility the City shall install catch basin filters designed to capture sediment, debris, trash, and oils/grease from first flush flows with a minimum treatment flow rate capacity of 1.0 cfs. The City shall utilize either FloGard+Plus by KriStar Enterprises, Inc., DrainPac by United Storm Water Inc. or an equivalent filter.
- iv. To filter and treat all storm water flows from roofs at the Facility, either by diverting the roof flows to detention basins equipped with filters as in Paragraph 8.a.iii. of this Agreement or by installing roof drain downspout filters designed to capture sediment, debris, trash & oils/grease from first flush flows with a minimum treatment flow rate capacity of 50 gallons per minute (“gpm”). The City shall utilize either FloGard+Plus by KriStar Enterprises, Inc. Downspout Filter by Bio Clean Environmental Services, or an equivalent filter.
- v. The City shall obtain a permit to discharge up to 860,000 gallons per day (“GPD”) of storm water from the Facility to the City of Los Angeles Sanitary Sewer System.
- vi. The City shall implement a new storm water sampling location, which

shall be sampled in accordance with the 2015 General Permit to the extent that the capacity of the detention basins are exceeded.

b. Interim Storm Water Management Measures: By October 15, 2014, the City shall implement the following measures to improve the quality of the Facility's storm water discharges during the 2014-2015 wet season and prior to the installation of the new storm water management system described above in Paragraph 8.a.:

- i. To protect and filter storm water before it enters the Entrance Scale Outfall, the City shall surround the outfall with a series of UltraTech "Sorb44," Ultratech "Sediment Removal Media," and Ultratech "Heavy Metal Removal Media" (or Filtrexx brand equivalent) filter socks. To reduce the potential for flow-through gaps, the City will use sandbags or other weights to hold the filter socks in place during rain events. Should significant flooding occur at the entrance that will negatively impact the ability to operate, the City may temporarily alter or remove the filter socks. In the event that filter socks are temporarily altered or removed, they must be re-installed within one business day after flooding subsides and access is re-established.
- ii. To protect and filter storm water before it enters the Exit Scale Outfall, the City shall line the concrete channel leading up to the outfall with a series of UltraTech "Sorb44," Ultratech "Sediment Removal Media," and Ultratech "Heavy Metal Removal Media" (or Filtrexx brand equivalent) filter socks. To reduce the potential for flow-through gaps, the City will use sandbags or other weights to hold the filter socks in place during rain events.
- iii. The City shall sweep at the Facility at least three times per day.

- iv. The City shall remove or cover the uncovered dumpster located on the North side of the processing building.
- v. The City shall relocate televisions and other electronics, currently stored outside, to a covered location at the Facility.

9. SWPPP Amendments/Additional Best Management Practices. By October 15, 2014, the City will formally amend the Storm Water Pollution Prevention Plan ("SWPPP") for the Facility to incorporate the relevant requirements set forth in Paragraph 8.b. of this Agreement. By October 1, 2016, the City will amend the SWPPP for the Facility to incorporate the relevant requirements set forth in Paragraph 8.a. of this Agreement. The City will provide CCAT with a copy of any amendments to the Facility's SWPPP made during the term of the Agreement within fourteen (14) calendar days of such amendment.

10. Confirmation of Installed Storm Water Management Measures. Within fifteen (15) calendar days of the District Court's entry of the Order dismissing the action described in Paragraph 2 of this Agreement, the City shall provide CCAT with written confirmation that it has completed the installation of the measures described in Paragraph 8.b., supported by digital photographs of any physically installed measures. By October 15, 2016, the City shall provide CCAT with written confirmation that it has completed the installation of the measures described above in Paragraph 8.a., supported by digital photographs of any physically installed measures.

11. Documents. During the life of this Agreement, the City shall provide CCAT with a copy of all documents submitted to the Regional Board or the State Board concerning the Facility's storm water discharges, including but not limited to all documents and reports submitted to the Regional Board and/or State Board as required by the General Permit and/or the 2015 General Permit. Such documents and reports shall be mailed to CCAT contemporaneously with submission to such agency. Within twenty business (20) days of a written request (via e-mail or regular mail) by CCAT, the City also shall provide CCAT a copy of all documents

referenced in this Agreement from the year prior to the request, including but not limited to logs, photographs, or analyses.

VI. INSPECTIONS OF FACILITIES

12. **Inspections During The Term Of This Agreement.** The City will permit representatives of CCAT to perform one (1) physical inspection of the Facility during the term of this Agreement if requested by CCAT. This inspection will be performed by CCAT's counsel and consultant(s) and may include sampling, photographing, and/or videotaping. CCAT will provide the City with a copy of all sampling reports, photographs and/or video. CCAT will provide at least three (3) business days advance notice of such physical inspection, except that the City will have the right to deny access if circumstances would make the inspection unduly burdensome and pose significant interference with operations or the schedule of any party and/or attorney, or the safety of individuals. In such case, the City will specify at least three (3) dates within the two (2) weeks thereafter upon which a physical inspection by CCAT may proceed. The City will not make any alterations to the Facility conditions during the period between receiving CCAT's initial three (3) business days advance notice and the start of CCAT's inspection that the City would not otherwise have made but for receiving notice of CCAT's request to conduct a physical inspection of the Facility, excepting any actions taken in compliance with any applicable laws or regulations. Nothing in this Agreement will be construed to prevent the City from continuing to implement or augment any Best Management Practices ("BMPs") identified in the SWPPP during the period prior to an inspection by CCAT or at any time.

VII. PAYMENT OF FEES AND COSTS AND MITIGATION PAYMENT

13. **Fees and Costs.** To help defray CCAT's attorneys, consultant, and expert fees and costs, and any other costs incurred as a result of investigating, filing the Complaint, and

negotiating a settlement, as well as the future oversight of the implementation of this Agreement, the City will pay CCAT the sum of thirty-eight thousand dollars (\$38,000) which includes all attorneys' fees and costs for all services performed by and on behalf of CCAT by its attorneys and consultants up to and through the Effective Date, as well as the cost of CCAT's general oversight of the City's compliance with the terms of the Agreement. The payment will be made within ten (10) days of the Effective Date. The payment will be made in the form of a check payable to "Lozeau Drury LLP" addressed to: 410 12th Street, Suite 250, Oakland, CA 94607, sent overnight delivery, and will constitute full satisfaction of all costs of litigation incurred by CCAT that have or could have been claimed in connection with or arising out of the Notice Letter and Complaint, up to and including the Effective Date.

14. Mitigation Payment. In recognition of the good-faith efforts by the City to comply with the General Permit, the federal Clean Water Act, and the California Porter-Cologne Water Quality Control Act, and in lieu of payment by the City of any penalties and costs which may have been assessed if the Complaint had proceeded to trial and CCAT prevailed, the Settling Parties agree that the City will pay the sum of thirty-five thousand dollars (\$35,000) to the Los Angeles Beautification Team for the sole purpose of funding a rain barrel installation program that will be implemented in the City of Los Angeles, within the Los Angeles River watershed and near the Eastside of Los Angeles County that includes, but is not limited to, the neighborhoods of Boyle Heights, El Sereno, and Lincoln Heights, as depicted in the map attached hereto as Exhibit D. Payment shall be provided to the Los Angeles Beautification Team as follows: Los Angeles Beautification Team, 1741 N. Cherokee Avenue, Hollywood, CA 90028. Payment shall be made by the City to the Los Angeles Beautification Team within fifteen (15) calendar days of the District Court's entry of the Order dismissing the action described in Paragraph 2 of this Agreement. The City shall copy CCAT with any correspondence and a copy of the check sent to the Los Angeles Beautification Team. The Los

Angeles Beautification Team shall provide notice to the Settling Parties within thirty (30) days of when the funds are dispersed by the Los Angeles Beautification Team, setting forth the recipient and purpose of the funds.

VIII. COMMITMENTS OF CCAT

15. Submission of Agreement to Federal Agencies. CCAT will submit a copy of this Agreement to the EPA and the United States Department of Justice (“DOJ”) within three (3) business days of its execution for agency review consistent with 40 C.F.R. § 135.5. The agency review period expires forty-five (45) days after receipt by both agencies, as evidenced by the certified return receipts, copies of which CCAT will provide to the City. In the event that EPA or DOJ comment negatively on the provisions of this Agreement, the Settling Parties will meet and confer to attempt to resolve the issue(s) raised by EPA or DOJ. If CCAT and the City are unable to resolve any issue(s) raised by the Agencies in their comments, CCAT and the City agree to expeditiously seek a settlement conference with the Magistrate Judge assigned to this matter to resolve the issue(s).

16. Stipulation to Dismiss With Prejudice and [Proposed] Order. Within ten (10) calendar days of the expiration of the agencies’ review period specified in Paragraph 15 above, CCAT will file a Stipulation to Dismiss With Prejudice and [Proposed] Order thereon pursuant to Federal Rule of Civil Procedure 41(a)(2) with the United States District Court for the Central District of California (“District Court”), with this Agreement attached as Exhibit A thereto and incorporated by reference, specifying that CCAT is dismissing with prejudice all claims in CCAT’s Complaint. The Stipulation to Dismiss with Prejudice and [Proposed] Order must state that the District Court will maintain jurisdiction over the parties for purposes of resolving any disputes between the Settling Parties with respect to any provision of this Agreement incorporated into the Court’s dismissal order. In resolving such disputes, the Court may order

any appropriate remedy including, but not limited to, contempt sanctions. CCAT is responsible for notifying the City of the District Court's entry of the order dismissing with prejudice. If the District Court chooses not to enter the order, this Agreement will be null and void.

**IX. BREACH OF AGREEMENT/DISMISSAL ORDER AND DISPUTE
RESOLUTION PROCEDURES**

17. Force Majeure. The City will notify CCAT if timely implementation of the City's duties under this Agreement becomes impossible due to circumstances beyond the control of the City or its agents, and which could not have been reasonably foreseen and prevented by the City's exercise of due diligence (a "force majeure" event). Any delays due to the City's failure to make timely and bona fide applications and to exercise diligent efforts to comply with the terms in this Agreement will not, in any event, be considered to be circumstances beyond the City's control. Financial inability of the City will not, in any event, be considered to be circumstances beyond the City's control.

a. If the City claims impossibility, it will notify CCAT in writing within twenty (20) business days of the date that the City discovers the event or circumstance that caused or would cause non-performance with the terms of this Agreement, or the date the City should have known of the event or circumstance by the exercise of due diligence. The notice must describe the reason for the non-performance and specifically refer to this section of this Agreement. The notice must describe the anticipated length of time the non-performance may persist, the cause or causes of the non-performance, the measures taken or to be taken by the City to prevent or minimize the non-performance, the schedule by which the measures will be implemented, and the anticipated date of compliance. The City will adopt all reasonable measures to avoid and minimize such non-performance.

b. The Settling Parties will meet and confer in good faith concerning the non-performance and, if the Settling Parties concur that performance was or is impossible, despite the

timely good faith efforts of the City, due to circumstances beyond the control of the City that could not have been reasonably foreseen and prevented by the exercise of due diligence by the City, new performance deadlines will be established.

c. If CCAT disagrees with the City's notice, or in the event that the Settling Parties cannot timely agree on the terms of new performance deadlines or requirements, either Settling Party may invoke the dispute resolution process described in Paragraphs 19 and 20 of this Agreement. In such proceeding, the City will bear the burden of proving that any delay in performance of any requirement of this Agreement was caused or will be caused by a force majeure event and the extent of any delay attributable to such circumstances.

18. The dispute resolution process set forth in Paragraphs 19 and 20 will be the exclusive mechanism for resolving disputes between the Settling Parties with regard to any aspect of this Agreement.

19. Informal Dispute Resolution. The Settling Parties will engage in "Informal Dispute Resolution" pursuant to the terms of this paragraph:

a. If a dispute under this Agreement arises, including whether any Settling Party believes that a violation of the Agreement and the Court's dismissal order has occurred, the Settling Parties will meet and confer (telephonically or in-person) within twenty-one (21) days of receiving written notification of a request for such meeting. During the meet and confer proceeding, the Settling Parties will discuss the dispute and make reasonable efforts to devise a mutually acceptable plan, including implementation dates, to resolve the dispute. The Settling Parties may, upon mutual written agreement, extend the time to conduct the meet and confer discussions beyond twenty-one (21) days.

b. If any Settling Party fails to meet and confer within the timeframes set forth in paragraph (a) directly above, or the meet and confer does not resolve the dispute, after at least twenty-one (21) days have passed after the meet and confer occurred or should have

occurred, either Settling Party may initiate the “Formal Dispute Resolution” procedures outlined directly below.

20. Formal Dispute Resolution. In any action or proceeding which is brought by any Settling Party against any other Settling Party pertaining to, arising out of, or related to the requirements of the Court’s dismissal order and this Agreement, the Settling Parties will first utilize the “Informal Dispute Resolution” meet and confer proceedings set forth in the preceding paragraph and, if not successful, the Settling Parties will utilize the “Formal Dispute Resolution” procedures in this paragraph. “Formal Dispute Resolution” will be initiated by filing a Motion to Show Cause or other appropriately titled motion (“Motion”) in the United States District Court, Central District of California, to determine whether either party is in violation of the Agreement and the Court’s dismissal order and, if so, to require the violating party to remedy any violation identified by the District Court within a reasonable time frame. Litigation costs and fees incurred in the Formal Dispute Resolution process will be awarded in accord with the standard established by Section 505 of the Clean Water Act, 33 U.S.C. § 1365.

X. NOTICES AND SUBMISSIONS

21. The City will provide CCAT with all documents or reports required by this Agreement. All notices or any other correspondence pertaining to this Agreement will be sent by regular, certified, overnight, or electronic mail as follows:

If to CCAT:

Michael Lozeau
Douglas Chermak
LOZEAU | DRURY LLP
410 12th Street, Suite 250
Oakland, CA 94607
Telephone: (510) 836-4200
Email: michael@lozeaudrury.com
doug@lozeaudrury.com

Jane Williams, Executive Director
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560
Telephone: (661)-510-3412
E-mail: dcapjanc@aol.com

If to the City:

Khalil M. Gharios, P.E., Manager
Solid Resources Processing & Construction Division
LA Sanitation
1149 S. Broadway, Suite 500
Los Angeles, CA 90015
Telephone: (213) 485-3002
Fax: (213) 485-2958
Email: Khalil.gharios@lacity.org

John Carvalho
Office of the City Attorney
200 N. Main Street, 7th Fl.
Los Angeles, CA 90012
Telephone: (213) 978-8184
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Nicole E. Granquist
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
Telephone: (916) 444-1000
Fax: (916) 444-2100
Email: nggranquist@downeybrand.com

22. Notices or communications will be deemed submitted on the date that they are postmarked and sent by first-class mail, deposited with an overnight mail/delivery service, or sent via electronic message. Any change of address or addresses must be communicated in writing in the manner described above for giving notices. In addition, the Settling Parties may

agree to transmit documents electronically or by facsimile.

23. During the life of this Agreement, the City will preserve at least one legible copy of all records and documents, including computer-stored information, which relate to performance of its obligations under this Agreement.

**XI. MUTUAL RELEASE OF LIABILITY AND
COVENANT NOT TO SUE**

24. As of the Effective Date of this Agreement, each Settling Party and its successors, assigns, directors, officers, agents, attorneys, representatives, and employees, hereby release the other Settling Party and their directors, officers, agents, employees, successors and assigns, from any and all claims and demands of any kind, nature, or description, and from any and all liabilities, relief, damages, fees (including fees of attorneys, experts, and others), injuries, actions, or causes of action, either at law or in equity, whether known or unknown, except as provided for in Section IX of this Agreement, which the Settling Parties have against each other arising from CCAT's allegations and claims as set forth in the Notice Letter and Complaint at the Facility up to and including the Termination Date of this Agreement.

25. The Settling Parties acknowledge that they are familiar with section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Settling Parties hereby waive and relinquish any rights or benefits they may have under California Civil Code section 1542 with respect to any other claims against each other arising from the allegations and claims as set forth or that could have been set forth in the Notice Letter and/or the Complaint at the Facility up to and including the Termination Date of this Agreement.

26. For the period beginning on the Effective Date and ending on the Termination Date, CCAT and its officers, executive staff, members of its governing board and any organization under the control of CCAT, its officers, executive staff, or members of its governing board, shall not file any lawsuit against the City seeking relief for any alleged violation of the Clean Water Act, the General Permit, the 2015 General Permit, or any revisions thereto, or similar federal and state statutes and/or regulations, at the City's Facility. CCAT will not support other lawsuits, by providing financial assistance, personnel time, or other affirmative actions, against the City's Facility that may be proposed by other groups or individuals who would rely upon the citizen suit provision of the Clean Water Act to challenge the Facility's compliance with the Clean Water Act or the General Permit, the 2015 General Permit, or any revisions thereto, or similar federal and state statutes and/or regulations.

XII. GENERAL PROVISIONS

27. **Construction.** The language in all parts of this Agreement will be construed according to its plain and ordinary meaning, except as to those terms defined by law, in the General Permit, 2015 General Permit, Clean Water Act, or specifically herein.

28. **Choice of Law.** This Agreement will be governed by the laws of the United States, and where applicable, the laws of the State of California.

29. **Severability.** In the event that any provision, section, or sentence of this Agreement is held by a court to be unenforceable, the validity of the remaining enforceable provisions will not be adversely affected.

30. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one original document. Telecopy, .pdf, and/or facsimile copies of original signature will be deemed to be originally executed counterparts of this Agreement.

31. **Assignment.** Subject only to the express restrictions contained in this Agreement, all of the rights, duties and obligations contained in this Agreement will inure to the benefit of and be binding upon the Settling Parties, and their successors and assigns.

32. **Modification of the Agreement:** This Agreement may not be changed, waived, discharged or terminated, other than termination pursuant to Section V of this Agreement, unless by a written instrument, signed by the Settling Parties.

33. **Full Settlement.** This Agreement constitutes a full and final settlement of the Notice Letter and Complaint and the related legal action. Each Settling Party has freely and voluntarily entered into the Agreement with and upon advice of counsel.

34. **Integration Clause.** This is an integrated agreement. This Agreement is intended to be a full and complete statement of the terms of the agreement between the Settling Parties and expressly supersedes any and all prior oral or written agreements, covenants, representations and warranties (express or implied) concerning the subject matter of this Agreement.

35. **Negotiated Agreement.** The Settling Parties have negotiated this Agreement, and it will not be construed against the party preparing it, but will be construed as if the Settling Parties jointly prepared this Agreement and any uncertainty and ambiguity will not be interpreted against any one Settling Party.

36. **Authority.** The undersigned representatives for CCAT and the City each certify that he or she is fully authorized to enter into the terms and conditions of this Agreement on behalf of that party.

37. **Cure.** Except in case of an emergency but subject to the regulatory authority of any applicable governmental authority, any breach of or default under this Agreement capable of being cured will be deemed cured if, within five (5) days of first receiving notice of the alleged breach or default, or within such other period approved in writing by the Settling Party not

making such a allegation, which approval may not be unreasonably withheld, the Settling Party allegedly in breach or default has actually cured or, if the breach or default can be cured but is not capable of being cured within such five (5) day period, has commenced and is diligently pursuing to completion a cure

38. Court Approval. If for any reason the District Court declines to approve this Agreement in the form presented, the Settling Parties will use reasonable efforts to work together to modify the Agreement within thirty (30) days of receiving notice by District Court so that it is acceptable to the District Court. If the Parties are unable to modify this Agreement in a mutually acceptable manner that is also acceptable to the District Court, this Agreement will immediately be null and void as well as inadmissible as a settlement communication under Federal Rule of Evidence 408.

39. Definition of Terms. Unless otherwise expressly defined herein, terms used in this Agreement, which are defined in the Act, the General Permit, the 2015 General Permit, or in regulations implementing this statute, have the meaning assigned to them in the applicable statutes or regulations. The term "day" as used herein means a calendar day. In computing any period of time under this Agreement, where the last day of such period is a Saturday, Sunday, or Federal or State Holiday, the period runs until the close of business on the next day that is not a Saturday, Sunday, or Federal or State Holiday. The term "year" means a calendar year, unless otherwise specified.

The Settling Parties are signing this Agreement as of the date opposite each respective signature.

California Communities Against Toxics

Date: March 18, 2015

Jane Williams
By: Jane Williams

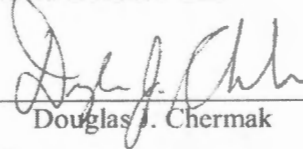
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SETTLEMENT AGREEMENT: CCAT v. CITY OF LOS ANGELES, ET AL.

Approved as to Form

Date: 18 Mar. 2015

LOZEAU DRURY LLP

By: 
Douglas J. Chermak

Attest:

City of Los Angeles

Date: _____

By: _____

Approved as to Form

Date: _____

Office of the City Attorney

By: John Carvalho

Date: _____

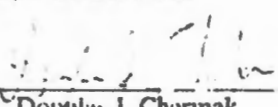
DOWNEY BRAND LLP

By: Nicole E. Granquist

Approved as to Form

Date: 3/23/15

LOZEAU DRURY LLP

By: 
Douglas J. Chernak

Attest:

Date: 3/23/15

City of Los Angeles

By: 

Approved as to Form:

Date: 3/23/15

Office of the City Attorney

By: 
John Carvalho

Date: 3/23/15

DOWNEY BRAND LLP

By: 
Nicole E. Granquist

EXHIBIT A – Facility Site Map

STORM WATER POLLUTION PREVENTION PLAN
CENTRAL LOS ANGELES RECYCLING AND TRANSFER STATION

Figure 4 – SURFACE DRAINAGE DIAGRAM

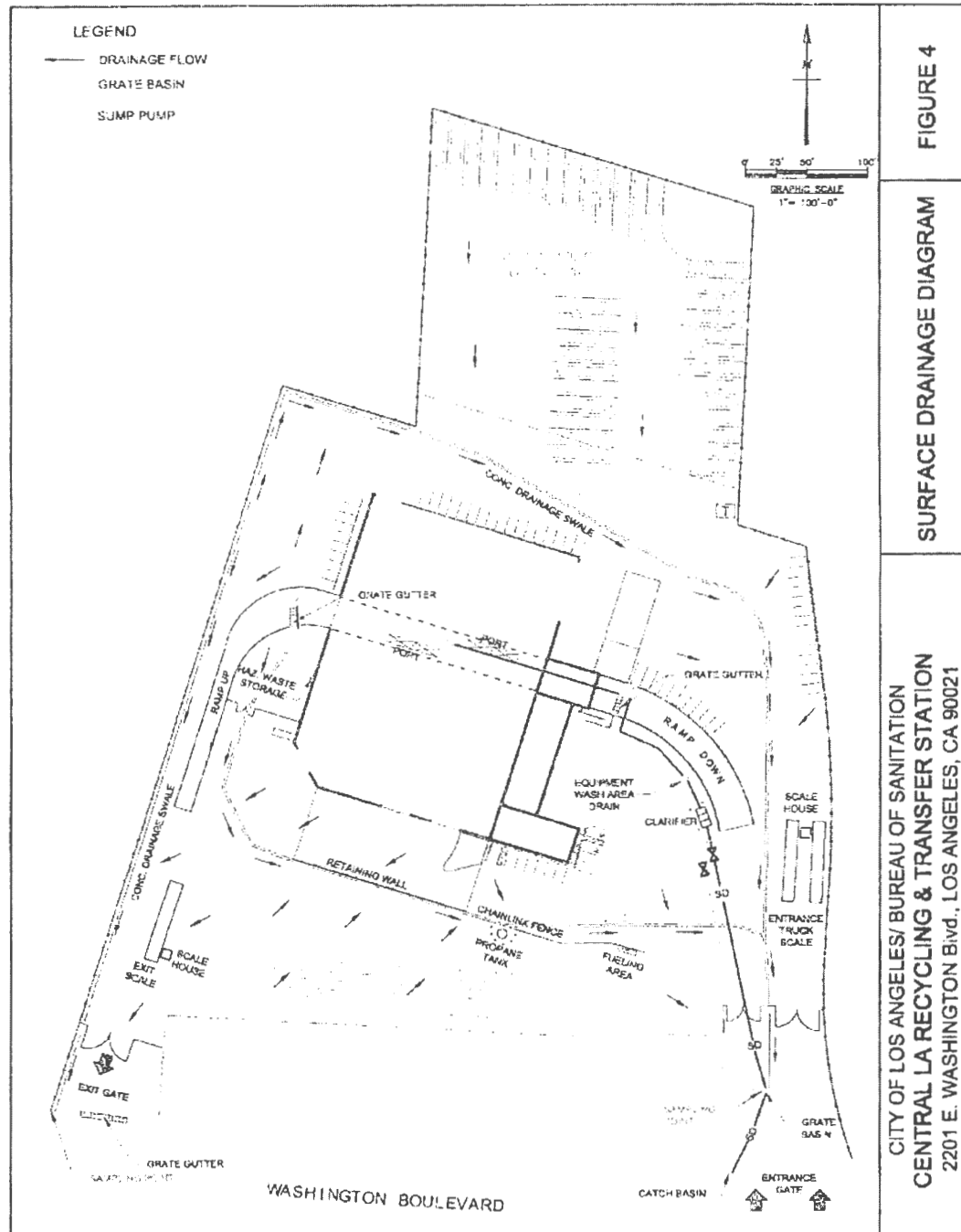


EXHIBIT B – Complaint and Notice Letter

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13 CALIFORNIA COMMUNITIES
14 AGAINST TOXICS

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 CALIFORNIA COMMUNITIES
18 AGAINST TOXICS, an
19 unincorporated non-profit association,

20 Plaintiff,

21 vs.

22 CITY OF LOS ANGELES, a
23 municipality; BUREAU OF
24 SANITATION OF THE CITY OF
25 LOS ANGELES,

26 Defendants.

Case No. 2:14-CV-03609

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

27 CALIFORNIA COMMUNITIES AGAINST TOXICS (“CCAT”), a California
28 non-profit association, by and through its counsel, hereby alleges:

I. JURISDICTION AND VENUE

1. This is a civil suit brought under the citizen suit enforcement provisions
of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean

1 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties
2 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33
3 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the
4 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02
5 (power to issue declaratory relief in case of actual controversy and further necessary
6 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);
7 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).
8

10 2. On February 28, 2014, Plaintiff provided notice of Defendants’
11 violations of the Act, and of its intention to file suit against Defendants, to the
12 Administrator of the United States Environmental Protection Agency (“EPA”); the
13 Administrator of EPA Region IX; the Executive Director of the State Water
14 Resources Control Board (“State Board”); the Executive Officer of the California
15 Regional Water Quality Control Board, Los Angeles Region (“Regional Board”); and
16 to Defendants, as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct
17 copy of CCAT’s notice letter is attached as Exhibit A, and is incorporated by
18 reference.
19

23 3. More than sixty days have passed since notice was served on Defendants
24 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
25 alleges, that neither the EPA nor the State of California has commenced or is
26 diligently prosecuting a court action to redress the violations alleged in this complaint.
27
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1 This action's claim for civil penalties is not barred by any prior administrative penalty
2 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

3 4. Venue is proper in the Central District of California pursuant to Section
4 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
5 located within this judicial district.
6

7 **II. INTRODUCTION**
8

9 5. This complaint seeks relief for Defendants' discharges of polluted storm
10 water and non-storm water pollutants from Defendants' recycling center and transfer
11 station located at 2201 E. Washington Boulevard in Los Angeles, California – the
12 Central Los Angeles Recycling and Transfer Stations ("CLARTS" or "Facility") in
13 violation of the Act and National Pollutant Discharge Elimination System ("NPDES")
14 Permit No. CAS000001, State Water Resources Control Board Water Quality Order
15 No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ and Water
16 Quality Order No. 97-03-DWQ (hereinafter the "Permit" or "General Permit").
17

18 Defendants' violations of the discharge, treatment technology, monitoring
19 requirements, and other procedural and substantive requirements of the Permit and the
20 Act are ongoing and continuous.
21

22 **III. PARTIES**
23

24 6. Plaintiff CALIFORNIA COMMUNITIES AGAINST TOXICS
25 ("CCAT") is an unincorporated non-profit association under the laws of the State of
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1 California with its main office in Rosamond, California. CCAT has members who
2 live, recreate and work in and around waters in the vicinity of Defendant's Facility.
3 CCAT is dedicated to the preservation, protection, and defense of the environment,
4 particularly with respect to areas and waters near urban industrial communities. To
5 further these goals, CCAT actively seeks federal and state agency implementation of
6 the Act and other laws and, where necessary, directly initiates enforcement actions on
7 behalf of itself and its members.
8

10 7. Members of CCAT reside in and around the Los Angeles River and
11 enjoy using the Los Angeles River for recreation and other activities. Members of
12 CCAT use and enjoy the waters into which Defendants have caused, are causing, and
13 will continue to cause, pollutants to be discharged. Members of CCAT use those
14 areas to recreate and view wildlife, among other things. Defendants' discharges of
15 pollutants threaten or impair each of those uses or contribute to such threats and
16 impairments. Thus, the interests of CCAT's members have been, are being, and will
17 continue to be adversely affected by Defendants' failure to comply with the Clean
18 Water Act and the Permit. The relief sought herein will redress the harms to Plaintiff
19 caused by Defendants' activities.
20

24 8. Continuing commission of the acts and omissions alleged above will
25 irreparably harm Plaintiff and its members, for which harm they have no plain, speedy
26 or adequate remedy at law.
27
28

1 9. Defendant CITY OF LOS ANGELES is a municipality. Defendant
2 BUREAU OF SANITATION is a bureau of the City of Los Angeles' Department of
3 Public Works that operates the Facility.
4

5 **IV. STATUTORY BACKGROUND**

6 10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
7 any pollutant into waters of the United States, unless such discharge is in compliance
8 with various enumerated sections of the Act. Among other things, Section 301(a)
9 prohibits discharges not authorized by, or in violation of, the terms of an NPDES
10 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
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12

13 11. Section 402(p) of the Act establishes a framework for regulating
14 municipal and industrial storm water discharges under the NPDES program. 33
15 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
16 Section 402(p) to regulate industrial storm water discharges through individual
17 permits issued to dischargers or through the issuance of a single, statewide general
18 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).
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21

22 12. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
23 of the U.S. EPA has authorized California's State Board to issue NPDES permits
24 including general NPDES permits in California.
25

26 13. The State Board elected to issue a statewide general permit for industrial
27 storm water discharges. The State Board issued the General Permit on or about
28

1 November 19, 1991, modified the General Permit on or about September 17, 1992,
2 and reissued the General Permit on or about April 17, 1997, pursuant to Section
3 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).
4

5 14. In order to discharge storm water lawfully in California, industrial
6 dischargers must comply with the terms of the General Permit or have obtained and
7 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
8

9 15. The General Permit contains several prohibitions. Effluent Limitation
10 B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their
11 storm water discharges through implementation of the Best Available Technology
12 Economically Achievable (“BAT”) for toxic and nonconventional pollutants and the
13 Best Conventional Pollutant Control Technology (“BCT”) for conventional pollutants.
14 BAT and BCT include both nonstructural and structural measures. General Permit,
15 Section A(8). Discharge Prohibition A(2) of the General Permit prohibits storm water
16 discharges and authorized non-storm water discharges that cause or threaten to cause
17 pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the
18 General Permit prohibits storm water discharges to any surface or ground water that
19 adversely impact human health or the environment. Receiving Water Limitation C(2)
20 of the General Permit prohibits storm water discharges that cause or contribute to an
21 exceedance of any applicable water quality standards contained in Statewide Water
22 Quality Control Plan or the applicable Regional Board’s Basin Plan.
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1 16. In addition to absolute prohibitions, the General Permit contains a variety
2 of substantive and procedural requirements that dischargers must meet. Facilities
3 discharging, or having the potential to discharge, storm water associated with
4 industrial activity that have not obtained an individual NPDES permit must apply for
5 coverage under the State's General Permit by filing a Notice of Intent to Comply
6 ("NOI"). The General Permit requires existing dischargers to have filed their NOIs
7 before March 30, 1992.
8

10 17. Dischargers must develop and implement a Storm Water Pollution
11 Prevention Plan ("SWPPP"). The SWPPP must describe storm water control facilities
12 and measures that comply with the BAT and BCT standards. The General Permit
13 requires that an initial SWPPP have been developed and implemented before October
14 1, 1992. The SWPPP must, among other requirements, identify and evaluate sources
15 of pollutants associated with industrial activities that may affect the quality of storm
16 and non-storm water discharges from the facility and identify and implement site-
17 specific best management practices ("BMPs") to reduce or prevent pollutants
18 associated with industrial activities in storm water and authorized non-storm water
19 discharges (Section A(2)). The SWPPP's BMPs must implement BAT and BCT
20 (Section B(3)). The SWPPP must include: a description of individuals and their
21 responsibilities for developing and implementing the SWPPP (Section A(3)); a site
22 map showing the facility boundaries, storm water drainage areas with flow pattern and
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1 nearby water bodies, the location of the storm water collection, conveyance and
2 discharge system, structural control measures, impervious areas, areas of actual and
3 potential pollutant contact, and areas of industrial activity (Section A(4)); a list of
4 significant materials handled and stored at the site (Section A(5)); a description of
5 potential pollutant sources including industrial processes, material handling and
6 storage areas, dust and particulate generating activities, and a description of
7 significant spills and leaks, a list of all non-storm water discharges and their sources,
8 and a description of locations where soil erosion may occur (Section A(6)). The
9 SWPPP must include an assessment of potential pollutant sources at the Facility and a
10 description of the BMPs to be implemented at the Facility that will reduce or prevent
11 pollutants in storm water discharges and authorized non-storm water discharges,
12 including structural BMPs where non-structural BMPs are not effective (Section A(7),
13 (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised
14 where necessary (Sections A(9), (10)).

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20 18. Section C(11)(d) of the General Permit's Standard Provisions requires
21 dischargers to report any noncompliance to the Regional Board. *See also* Section
22 E(6). Section A(9) of the General Permit requires an annual evaluation of storm water
23 controls including the preparation of an evaluation report and implementation of any
24 additional measures in the SWPPP to respond to the monitoring results and other
25 inspection activities.
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1 19. The General Permit requires dischargers commencing industrial activities
2 before October 1, 1992 to develop and implement an adequate written monitoring and
3 reporting program no later than October 1, 1992. Existing facilities covered under the
4 General Permit must implement all necessary revisions to their monitoring programs
5 no later than August 1, 1997.
6

7 20. As part of their monitoring program, dischargers must identify all storm
8 water discharge locations that produce a significant storm water discharge, evaluate
9 the effectiveness of BMPs in reducing pollutant loading, and evaluate whether
10 pollution control measures set out in the SWPPP are adequate and properly
11 implemented. Dischargers must conduct visual observations of these discharge
12 locations for at least one storm per month during the wet season (October through
13 May) and record their findings in their Annual Report. Dischargers must also collect
14 and analyze storm water samples from at least two storms per year. Section B(5)(a) of
15 the General Permit requires that dischargers “shall collect storm water samples during
16 the first hour of discharge from (1) the first storm event of the wet season, and (2) at
17 least one other storm event in the wet season. All storm water discharge locations
18 shall be sampled.” Section B(5)(c)(i) requires dischargers to sample and analyze
19 during the wet season for basic parameters, such as pH, total suspended solids,
20 electrical conductance, and total organic content or oil & grease, certain industry-
21 specific parameters. Section B(5)(c)(ii) requires dischargers to sample for toxic
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1 chemicals and other pollutants likely to be in the storm water discharged from the
2 facility. Section B(5)(c)(iii) requires discharges to sample for parameters dependent
3 on a facility's standard industrial classification ("SIC") code. Section B(7)(a)
4 indicates that the visual observations and samples must represent the "quality and
5 quantity of the facility's storm water discharges from the storm event." Section
6 B(7)(c) requires that "if visual observation and sample collection locations are
7 difficult to observe or sample...facility operators shall identify and collect samples
8 from other locations that represent the quality and quantity of the facility's storm
9 water discharges from the storm event."

13 21. The General Permit requires that facility operators "investigate the
14 facility to identify all non-storm water discharges and their sources. As part of this
15 investigation, all drains (inlets and outlets) shall be evaluated to identify whether they
16 connect to the storm drain system. All non-storm water discharges shall be described.
17 This shall include the source, quantity, frequency, and characteristics of the non-storm
18 water discharges and associated drainage area." Section A(6)(a)(v). The General
19 Permit authorizes certain non-storm water discharges providing that the non-storm
20 water discharges are in compliance with Regional Board requirements; that the non-
21 storm water discharges are in compliance with local agency ordinances and/or
22 requirements; that best management practices ("BMPs") are included in the Storm
23 Water Pollution Prevention Plan to (1) prevent or reduce the contact of non-storm
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1 water discharges with significant materials or equipment and (2) minimize, to the
2 extent practicable, the flow or volume of non-storm water discharges; that the non-
3 storm water discharges do not contain significant quantities of pollutants; and that the
4 monitoring program includes quarterly visual observations of each non-storm water
5 discharge and its sources to ensure that BMPs are being implemented and are
6 effective (Special Conditions D). Section B(3) of the General Permit requires
7
8 dischargers to conduct visual observations of all drainage areas for the presence of
9 non-storm water discharges, to observe the non-storm water discharges, and maintain
10 records of such observations.
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12

13 22. Section B(14) of the General Permit requires dischargers to submit an
14 annual report by July 1 of each year to the executive officer of the relevant Regional
15 Board. The annual report must be signed and certified by an appropriate corporate
16 officer. Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires
17 the discharger to include in their annual report an evaluation of their storm water
18 controls, including certifying compliance with the General Permit. *See also* Sections
19 C(9), C(10) and B(14).
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23 23. The General Permit does not provide for any mixing zones by
24 dischargers. The General Permit does not provide for any dilution credits to be
25 applied by dischargers.
26

27 24. The Regional Board has established water quality standards for the Los
28

1 Angeles River Watershed in the “Water Quality Control Plan – Los Angeles Region:
2 Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties”,
3 generally referred to as the Basin Plan.
4

5 25. The Basin Plan includes a narrative toxicity standard which states that
6 “[a]ll waters shall be maintained free of toxic substances in concentrations that are
7 toxic to, or that produce detrimental physiological responses in, human, plant, animal,
8 or aquatic life.”
9

10 26. The Basin Plan includes a narrative oil and grease standard which states
11 that “[w]aters shall not contain oils, greases, waxes, or other materials in
12 concentrations that result in a visible film or coating on the surface of the water or on
13 objects in the water, that cause nuisance, or that otherwise adversely affect beneficial
14 uses.”
15

16 27. The Basin Plan provides that “[w]aters shall not contain suspended or
17 settleable material in concentrations that cause nuisance or adversely affect beneficial
18 uses.”
19

20 28. The Basin Plan provides that “[t]he pH of bays or estuaries [or inland
21 surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of
22 waste discharges.”
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24 29. The Basin Plan provides that “[s]urface waters shall not contain
25 concentrations of chemical constituents in amounts that adversely affect any
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1 designated beneficial use.”

2 30. The Basin Plan provides that “[w]ater shall not contain floating materials,
3 including solids, liquids, foams, and scum, in concentrations that cause nuisance or
4 adversely affect beneficial uses.”

5 31. The Basin Plan provides that “[w]aters shall be free of coloration that
6 causes nuisance or adversely affects beneficial uses.”

7 32. The Basin Plan provides that “[s]urface waters shall not contain
8 concentrations of chemical constituents in amounts that adversely affect any
9 designated beneficial use. Water designated for use as Domestic or Municipal Supply
10 (MUN) shall not contain concentrations of chemical constituents in excess of the
11 limits specified in the following provisions of Title 22 of the California Code of
12 Regulations which are incorporated by reference into this plan: Table 64431-A of
13 Section 64431 (Inorganic Chemicals)...” The Basin Plan provides a Maximum
14 Contaminant Level (“MCL”) for aluminum of 1 mg/L.

15 33. The Basin Plan contains additional water quality standards for the Los
16 Angeles River in an amendment setting forth Total Maximum Daily Loads
17 (“TMDLs”) for the Los Angeles River. *See*
18 http://63.199.216.6/larwqcb_new/bpa/docs/R10-003/R10-003_RB_BPA.pdf. For
19 General Industrial Storm Water permittees, the Basin Plan sets forth interim wet-
20 weather concentration-based waste load allocations (“WLAs”) that are enforceable
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1 conditions for discharges beginning on January 11, 2011. There is a WLA for copper
2 of 0.0636 mg/L, for lead of 0.0816 mg/L, and for zinc of 0.117 mg/L.

3 34. The EPA has adopted freshwater numeric water quality standards for
4 zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”); for copper of 0.013
5 mg/L (CMC); and for lead of 0.065 mg/L (CMC). 65 Fed.Reg. 31712 (May 18, 2000)
6 (California Toxics Rule).
7
8

9 35. The EPA 303(d) List of Water Quality Limited Segments lists Reach 1 of
10 the Los Angeles River (Carson to Figueroa Street) – where the Facility’s storm water
11 discharges – as impaired for copper, lead, oil, and trash, among other pollutants. *See*
12 [http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf)
13 [2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf). Reach 1 of the Los
14 Angeles River, the next segment downstream, is listed as impaired for those same
15 pollutants as well as zinc.
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19 36. EPA has established Parameter Benchmark Values as guidelines for
20 determining whether a facility discharging industrial storm water has implemented the
21 requisite BAT and BCT. EPA has established Parameter Benchmark Values for the
22 following parameters, among others: pH – 6.0 - 9.0 units; total suspended solids
23 (“TSS”) – 100 mg/L, oil and grease (“O&G”) – 15 mg/L, chemical oxygen demand
24 (“COD”) – 120 mg/L, iron – 1.0 mg/L, aluminum – 0.75 mg/L, lead – 0.069 mg/L,
25 copper – 0.0123 mg/L, and zinc – 0.11 mg/L.
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1 37. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
2 enforcement actions against any “person,” including individuals, corporations, or
3 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)
4 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33
5 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil
6 penalties of up to \$37,500 per day per violation, pursuant to Sections 309(d) and 505
7 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.
8

9
10 **V. STATEMENT OF FACTS**
11

12 38. Defendant operates a recycling center and transfer station located at 2201
13 E. Washington Boulevard in Los Angeles, California. On information and belief,
14 CCAT alleges that the Facility is engaged in the handling, disposal, recycling, and
15 transfer of solid waste as well as the maintenance of both onsite operational
16 equipment and solid waste transfer vehicles. The Facility falls within SIC Codes 4212
17 and 5093. The Facility has also represented that it falls within SIC Code 4953. The
18 majority of the Facility is paved and used for receiving, storing, sorting, and
19 transporting waste materials. On information and belief, Plaintiff alleges that there
20 are at least two large buildings located on the property. Plaintiff is informed and
21 believes, and thereupon alleges that receiving, storing, and processing of waste and
22 recycled material is conducted both inside these buildings and in the outside areas of
23 the Facility.
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1 39. Defendant channels and collects storm water falling on the Facility
2 through a series of storm water drains that leads to at least two storm water outfalls.
3 The Facility's outfall discharges to the County of Los Angeles' municipal storm drain
4 system, which discharges to the Los Angeles River.
5

6 40. On information and belief, Plaintiff alleges that the industrial activities at
7 the Facility include the sorting and processing of municipal solid waste and green
8 waste material. They also include the storage, fueling, and maintenance of trucks,
9 forklifts, and other machinery used to transfer and dispose of these materials.
10

11 41. Significant activities at the site take place outside and are exposed to
12 rainfall. These activities include the storage, handling, transfer, and disposal of waste
13 materials and the storage, maintenance, and use of vehicles and equipment for
14 materials handling. Loading and delivery of materials occurs outside. Trucks enter
15 and exit the Facility directly from and to a public road. Trucks, forklifts, and other
16 machinery are the primary means of moving materials around the Facility. These
17 areas are exposed to storm water and storm flows due to the lack of overhead
18 coverage, berms, and other storm water controls.
19

20 42. Industrial machinery, heavy equipment and vehicles, including trucks
21 and forklifts are operated at the Facility in areas exposed to storm water flows.
22 Plaintiff is informed and believes, and thereupon alleges, that such machinery and
23 equipment leak contaminants such as oil, grease, diesel fuel, coolant, and hydraulic
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1 fluids that are exposed to storm water flows, and that such machinery and equipment
2 track sediment and other contaminants throughout the Facility. On information and
3 belief, Plaintiff alleges that trucks leaving the Facility track substantial amounts of
4 material onto adjoining public roads. On information and belief, Plaintiff alleges that
5 during rain events, material that has been tracked from the Facility onto public roads
6 during dry weather is transported via storm water to storm drain channels.
7

8
9 43. Plaintiff is informed and believes, and thereupon alleges that the storm
10 water flows easily over the surface of the Facility, collecting suspended sediment, dirt,
11 oils, grease, and other pollutants as it flows toward the storm water drains. Storm
12 water and any pollutants contained in that storm water entering the drains flows
13 directly to the Facility's outfalls which discharge to the County of Los Angeles storm
14 drain system, which discharges to the Los Angeles River.
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17 44. The management practices at the Facility are wholly inadequate to
18 prevent the sources of contamination described above from causing the discharge of
19 pollutants to waters of the United States. The Facility lacks sufficient structural
20 controls such as grading, berming, roofing, containment, or drainage structures to
21 prevent rainfall and storm water flows from coming into contact with these and other
22 exposed sources of contaminants. The Facility lacks sufficient structural controls to
23 prevent the discharge of water once contaminated. The Facility lacks adequate storm
24 water pollution treatment technologies to treat storm water once contaminated. The
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1 Facility lacks controls to prevent the tracking and flow of pollutants onto adjacent
2 public roads.

3 45. Since at least October 13, 2009, Defendants have taken samples or
4
5 arranged for samples to be taken of storm water discharges at the Facility. The
6 sample results were reported in the Facility's annual reports submitted to the Regional
7 Board. Defendants certified each of those annual reports pursuant to Sections A and
8 C of the General Permit.

9
10 46. Since at least October 13, 2009, the Facility has detected pH, TSS, O&G,
11
12 COD, iron, aluminum, zinc, copper, and lead in storm water discharged from the
13 Facility. Levels of these pollutants detected in the Facility's storm water have been in
14 excess of EPA's numeric parameter benchmark values. Levels of these pollutants
15 detected in the Facility's storm water have been in excess and outside of the
16 parameters for water quality standards established in the Basin Plan.

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18 47. The following discharges on the following dates contained
19 concentrations of pollutants in excess of numeric water quality standards established
20 in the Basin Plan:

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Date	Parameter	Observed Concentration	Basin Plan Water Quality Standard / California Toxics Rule	Outfall (as identified by the Facility)
5/6/2013	pH	5.2 s.u.	6.5 – 8.5 s.u.	Entrance Scale
5/6/2013	pH	5.2 s.u.	6.5 – 8.5 s.u.	Exit Scale
1/23/2012	pH	5.4 s.u.	6.5 – 8.5 s.u.	Exit Scale
5/6/2013	Aluminum	39.7 mg/L	1.0 mg/L (MCL)	Entrance Scale
5/6/2013	Aluminum	40.3 mg/L	1.0 mg/L (MCL)	Exit Scale
11/30/2012	Aluminum	12.8 mg/L	1.0 mg/L (MCL)	Entrance Scale
11/30/2012	Aluminum	16.2 mg/L	1.0 mg/L (MCL)	Exit Scale
1/23/2012	Aluminum	12.4 mg/L	1.0 mg/L (MCL)	Entrance Scale
1/23/2012	Aluminum	12.9 mg/L	1.0 mg/L (MCL)	Exit Scale
10/5/2011	Aluminum	7.61 mg/L	1.0 mg/L (MCL)	Entrance Scale
10/5/2011	Aluminum	4.96 mg/L	1.0 mg/L (MCL)	Exit Scale
3/25/2011	Aluminum	9.55 mg/L	1.0 mg/L (MCL)	Exit Scale
10/6/2010	Aluminum	27.3 mg/L	1.0 mg/L (MCL)	Entrance Scale
10/6/2010	Aluminum	14.9 mg/L	1.0 mg/L (MCL)	Exit Scale
12/7/2009	Aluminum	14.6 mg/L	1.0 mg/L (MCL)	Entrance Scale
12/7/2009	Aluminum	21.4 mg/L	1.0 mg/L (MCL)	Exit Scale
10/13/2009	Aluminum	64.5 mg/L	1.0 mg/L (MCL)	Entrance Scale
10/13/2009	Aluminum	40.2 mg/L	1.0 mg/L (MCL)	Exit Scale
5/6/2013	Zinc	4.29 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
5/6/2013	Zinc	3.56 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
11/30/2012	Zinc	1 mg/L	0.12 mg/L (CMC) /	Entrance Scale

			0.117 mg/L (WLA)	
11/30/2012	Zinc	1.44 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
1/23/2012	Zinc	1.18 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
1/23/2012	Zinc	0.918 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
10/5/2011	Zinc	5.63 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
10/5/2011	Zinc	6.68 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
3/25/2011	Zinc	1.05 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
10/6/2010	Zinc	4.1 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
10/6/2010	Zinc	2.85 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
12/7/2009	Zinc	1.95 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
12/7/2009	Zinc	2.47 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale
10/13/2009	Zinc	111 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Entrance Scale
10/13/2009	Zinc	8.67 mg/L	0.12 mg/L (CMC) / 0.117 mg/L (WLA)	Exit Scale

1	5/6/2013	Copper	0.494 mg/L	0.013 mg/L (CMC) /	
2				0.0636 mg/L (WLA)	Entrance Scale
3	5/6/2013	Copper	0.431 mg/L	0.013 mg/L (CMC) /	
4				0.0636 mg/L (WLA)	Exit Scale
5	11/30/2012	Copper	0.189 mg/L	0.013 mg/L (CMC) /	
6				0.0636 mg/L (WLA)	Entrance Scale
7	11/30/2012	Copper	0.272 mg/L	0.013 mg/L (CMC) /	
8				0.0636 mg/L (WLA)	Exit Scale
9	1/23/2012	Copper	0.151 mg/L	0.013 mg/L (CMC) /	
10				0.0636 mg/L (WLA)	Entrance Scale
11	1/23/2012	Copper	0.128 mg/L	0.013 mg/L (CMC) /	
12				0.0636 mg/L (WLA)	Exit Scale
13	10/5/2011	Copper	0.532 mg/L	0.013 mg/L (CMC) /	
14				0.0636 mg/L (WLA)	Entrance Scale
15	10/5/2011	Copper	1.08 mg/L	0.013 mg/L (CMC) /	
16				0.0636 mg/L (WLA)	Exit Scale
17	3/25/2011	Copper	0.139 mg/L	0.013 mg/L (CMC) /	
18				0.0636 mg/L (WLA)	Exit Scale
19	10/6/2010	Copper	0.456 mg/L	0.013 mg/L (CMC) /	
20				0.0636 mg/L (WLA)	Entrance Scale
21	10/6/2010	Copper	0.442 mg/L	0.013 mg/L (CMC) /	
22				0.0636 mg/L (WLA)	Exit Scale
23	12/7/2009	Copper	0.214 mg/L	0.013 mg/L (CMC) /	
24				0.0636 mg/L (WLA)	Entrance Scale
25	12/7/2009	Copper	0.232 mg/L	0.013 mg/L (CMC) /	
26				0.0636 mg/L (WLA)	Exit Scale
27	10/13/2009	Copper	1.17 mg/L	0.013 mg/L (CMC) /	Entrance Scale

			0.0636 mg/L (WLA)	
10/13/2009	Copper	0.74 mg/L	0.013 mg/L (CMC) / 0.0636 mg/L (WLA)	Exit Scale
5/6/2013	Lead	0.902 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
5/6/2013	Lead	0.714 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
11/30/2012	Lead	0.235 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
11/30/2012	Lead	0.366 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
1/23/2012	Lead	0.27 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
1/23/2012	Lead	0.177 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
10/5/2011	Lead	0.594 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
10/5/2011	Lead	0.51 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
3/25/2011	Lead	0.205 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
10/6/2010	Lead	0.875 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
10/6/2010	Lead	0.378 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
12/7/2009	Lead	0.403 mg/L	0.065 mg/L (CMC) /	Entrance Scale

			0.0816 mg/L (WLA)	
12/7/2009	Lead	0.411 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale
10/13/2009	Lead	1.98 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Entrance Scale
10/13/2009	Lead	0.92 mg/L	0.065 mg/L (CMC) / 0.0816 mg/L (WLA)	Exit Scale

48. The level of pH in storm water detected by the Facility has been outside the range of the benchmark value for pH of 6.0 – 9.0 units established by EPA. The level of pH in storm water detected by the Facility has been outside the range of 6.5 – 8.5 units established by the Basin Plan. On May 6, 2013, the level of pH measured by Defendants at both outfalls was 5.2 units. On January 23, 2012, the level of pH measured by Defendants at one outfall was 5.4 units.

49. The level of TSS in storm water detected by the Facility has exceeded the benchmark value for TSS of 100 mg/L established by EPA. For example, on May 6, 2013, the level of TSS measured by Defendants at one of its outfalls was 7,380 mg/L. That level of TSS is almost 74 times the benchmark value for TSS. CLARTS also has measured levels of TSS in storm water discharged from the Facility in excess of 100 mg/L in nearly every other storm water sample it has taken for the past five years, including October 13, 2009; December 7, 2009; October 6, 2010; March 25, 2011; October 5, 2011; January 23, 2012; and November 30, 2012.

50. The level of O&G in storm water detected by the Facility has exceeded

1 the benchmark value for O&G of 15 mg/L established by EPA. For example, on May
2 6, 2013, the level of O&G measured by Defendants at one of the Facility's outfalls
3 was 205 mg/L. That level of O&G is almost 14 times the benchmark value for O&G.
4
5 The Facility also has measured levels of O&G in storm water discharged from the
6 Facility in excess of 15 mg/L in nearly every other storm water sample it has taken for
7 the past five years, including October 13, 2009; December 7, 2009; October 6, 2010;
8 March 25, 2011; October 5, 2011; January 23, 2012; and November 30, 2012.
9

10 51. The level of COD in storm water detected by the Facility has exceeded
11 the benchmark value for COD of 120 mg/L established by EPA. For example, on
12 May 6, 2013, the level of COD measured by Defendants at one of the Facility's
13 outfalls was 4,560 mg/L. That level of COD is 38 times the benchmark value for
14 COD. The Facility also has measured levels of COD in storm water discharged from
15 the Facility in excess of 120 mg/L in every other storm water sample it has taken for
16 the past five years, including October 13, 2009; December 7, 2009; October 6, 2010;
17 March 25, 2011; October 5, 2011; January 23, 2012; and November 30, 2012.
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21 52. The level of iron in storm water detected by the Facility has exceeded the
22 benchmark value for iron of 1 mg/L established by EPA. For example, on May 6,
23 2013, the level of iron measured by Defendants at one of the Facility's outfalls was
24 62.1 mg/L. That level of iron is 62 times the benchmark value for iron. The Facility
25 also has measured levels of iron in storm water discharged from the Facility in excess
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1 of 1 mg/L in nearly every other storm water sample it has taken for the past five years,
2 including October 13, 2009; December 7, 2009; October 6, 2010; March 25, 2011;
3 October 5, 2011; January 23, 2012; and November 30, 2012.
4

5 53. The levels of aluminum in storm water detected by the Facility have
6 exceeded the Maximum Contaminant Level for aluminum of 1 mg/L established by
7 the Basin Plan. For example, on May 6, 2013, the level of aluminum measured from
8 one of DART's storm water outfalls was 40.3 mg/L. That level of aluminum is over
9 40 times the Maximum Contaminant Level for aluminum.
10

11 54. The level of aluminum in storm water detected by the Facility has
12 exceeded the benchmark value for aluminum of 0.75 mg/L established by EPA. For
13 example, on May 6, 2013, the level of aluminum measured by Defendants at one of
14 the Facility's outfalls was 40.3 mg/L. That level of aluminum is almost 54 times the
15 benchmark value for aluminum. The Facility also has measured levels of aluminum
16 in storm water discharged from the Facility in excess of 0.75 mg/L in nearly every
17 other storm water sample it has taken for the past five years, including October 13,
18 2009; December 7, 2009; October 6, 2010; March 25, 2011; October 5, 2011; January
19 23, 2012; and November 30, 2012.
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24 55. The levels of zinc in storm water detected by the Facility have exceeded
25 the freshwater numeric water quality standard established by the EPA of 0.12 mg/L
26 for zinc (CMC) and the WLA established by the Basin Plan of 0.117 mg/L for zinc.
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1 For example, on May 6, 2013, the level of zinc measured from one of the Facility's
2 storm water outfalls was 4.29 mg/L. That level of zinc is almost 37 times the CMC
3 for zinc, and almost 36 times the WLA for zinc.
4

5 56. The level of zinc in storm water detected by the Facility has exceeded the
6 benchmark value for zinc of 0.11 mg/L established by EPA. For example, on May 6,
7 2013, the level of zinc measured by Defendants at one of the Facility's outfalls was
8 4.29 mg/L. That level of zinc is 39 times the benchmark value for zinc. The Facility
9 also has measured levels of zinc in storm water discharged from the Facility in excess
10 of 0.11 mg/L in nearly every other storm water sample it has taken for the past five
11 years, including October 13, 2009; December 7, 2009; October 6, 2010; March 25,
12 2011; October 5, 2011; January 23, 2012; and November 30, 2012.
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16 57. The levels of copper in storm water detected by the Facility have
17 exceeded the freshwater numeric water quality standard established by the EPA of
18 0.013 mg/L for copper (CMC) and the WLA established by the Basin Plan of 0.0636
19 mg/L for copper. For example, on May 6, 2013, the level of copper measured from
20 one of the Facility's storm water outfalls was 0.494 mg/L. That level of copper is 38
21 times the CMC for copper, and almost 8 times the WLA for copper.
22
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24 58. The level of copper in storm water detected by the Facility has exceeded
25 the benchmark value for copper of 0.0123 mg/L established by EPA. For example, on
26 May 6, 2013, the level of copper measured by Defendants at one of the Facility's
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1 outfalls was 0.494 mg/L. That level of copper is over 40 times the benchmark value
2 for copper. The Facility also has measured levels of copper in storm water discharged
3 from the Facility in excess of 0.0123 mg/L in nearly every other storm water sample it
4 has taken for the past five years, including October 13, 2009; December 7, 2009;
5 October 6, 2010; March 25, 2011; October 5, 2011; January 23, 2012; and November
6 30, 2012.
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9 59. The levels of lead in storm water detected by the Facility have exceeded
10 the freshwater numeric water quality standard established by the EPA of 0.065 mg/L
11 for lead (CMC) and the WLA established by the Basin Plan of 0.0816 mg/L for lead.
12 For example, on May 6, 2013, the level of lead measured from one of the Facility's
13 storm water outfalls was 0.902 mg/L. That level of lead is almost 14 times the CMC
14 for lead, and over 11 times the WLA for lead.
15
16

17 60. The level of lead in storm water detected by the Facility has exceeded the
18 benchmark value for lead of 0.069 mg/L established by EPA. For example, on May 6,
19 2013, the level of lead measured by Defendants at one of the Facility's outfalls was
20 0.902 mg/L. That level of lead is over 13 times the benchmark value for lead. The
21 Facility also has measured levels of lead in storm water discharged from the Facility
22 in excess of 0.069 mg/L in nearly every other storm water sample it has taken for the
23 past five years, including October 13, 2009; December 7, 2009; October 6, 2010;
24 March 25, 2011; October 5, 2011; January 23, 2012; and November 30, 2012.
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1 61. On information and belief, Plaintiff alleges that Defendants failed to
2 properly record visual observations of its storm water discharges on May 6, 2013;
3 November 30, 2012; January 23, 2012; December 7, 2009; and October 13, 2009.
4 Plaintiff alleges that Defendants should have observed the presence an oil sheen,
5 discoloration, and/or cloudiness on those dates.
6

7 62. On information and belief, Plaintiff alleges that since at least March 9,
8 2009, Defendants have failed to implement BAT and BCT at the Facility for their
9 discharges of pH, TSS, COD, O&G, iron, aluminum, zinc, copper, lead, and other
10 pollutants. Section B(3) of the General Permit requires that Defendants implement
11 BAT for toxic and nonconventional pollutants and BCT for conventional pollutants by
12 BAT for toxic and nonconventional pollutants and BCT for conventional pollutants by
13 no later than October 1, 1992. As of the date of this Complaint, Defendant has failed
14 to implement BAT and BCT.
15

16 63. On information and belief, Plaintiff alleges that since at least March 9,
17 2009, Defendants have failed to implement an adequate Storm Water Pollution
18 Prevention Plan for the Facility. Plaintiff is informed and believes, and thereupon
19 alleges, that the SWPPP prepared for the Facility does not set forth site-specific best
20 management practices for the Facility that are consistent with BAT or BCT for the
21 Facility. Plaintiff is informed and believes, and thereupon alleges, that the SWPPP
22 prepared for the Facility does not include an adequate assessment of potential
23 pollutant sources, structural pollutant control measures employed by the Defendants, a
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1 list of actual and potential areas of pollutant contact, or an adequate description of
2 best management practices to be implemented at the Facility to reduce pollutant
3 discharges. According to information available to CCAT, Defendants' SWPPP has
4 not been evaluated to ensure its effectiveness and revised where necessary to further
5 reduce pollutant discharges. Plaintiff is informed and believes, and thereupon alleges,
6 that the SWPPP does not include each of the mandatory elements required by Section
7 A of the General Permit.
8

9
10 64. Information available to CCAT indicates that as a result of these
11 practices, storm water containing excessive pollutants is being discharged during rain
12 events from the Facility directly to the County of Los Angeles storm drain system,
13 which discharges to the Los Angeles River.
14
15

16 65. Plaintiff is informed and believes, and thereupon alleges, that Defendants
17 have failed and continue to fail to alter the Facility's SWPPP and site-specific BMPs
18 consistent with Section A(9) of the General Permit.
19

20 66. Plaintiff is informed and believes that Defendants failed to submit to the
21 Regional Board a true and complete annual report certifying compliance with the
22 General Permit since at least May 28, 2010. Pursuant to Sections A(9)(d), B(14), and
23 C(9), (10) of the General Permit, Defendants must submit an annual report, that is
24 signed and certified by the appropriate corporate officer, outlining the Facility's storm
25 water controls and certifying compliance with the General Permit. Plaintiff is
26
27
28

1 informed and believes, and thereupon alleges, that Defendants have signed incomplete
2 annual reports that purported to comply with the General Permit when there was
3 significant noncompliance at the Facility.
4

5 67. Information available to Plaintiff indicates that Defendants have not
6 fulfilled the requirements set forth in the General Permit for discharges from the
7 Facility due to the continued discharge of contaminated storm water. Plaintiff is
8 informed and believes, and thereupon alleges, that all of the violations alleged in this
9 Complaint are ongoing and continuing.
10
11

12 **VI. CLAIMS FOR RELIEF**

13 **FIRST CAUSE OF ACTION**

14 **Failure to Implement the Best Available and**
15 **Best Conventional Treatment Technologies**
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

16 68. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
17 fully set forth herein.
18

19 69. The General Permit's SWPPP requirements and Effluent Limitation B(3)
20 require dischargers to reduce or prevent pollutants in their storm water discharges
21 through implementation of BAT for toxic and nonconventional pollutants and BCT
22 for conventional pollutants. Defendants have failed to implement BAT and BCT at
23 the Facility for its discharges of pH, TSS, COD, O&G, iron, aluminum, zinc, copper,
24 lead, and other un-monitored pollutants in violation of Effluent Limitation B(3) of the
25 General Permit.
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1 70. Each day since March 9, 2009, that Defendants have failed to develop and
2 implement BAT and BCT in violation of the General Permit is a separate and distinct
3 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).
4

5 71. Defendants have been in violation of the BAT/BCT requirements every
6 day since March 9, 2009. Defendants continue to be in violation of the BAT/BCT
7 requirements each day that they fail to develop and fully implement BAT/BCT at the
8 Facility.
9

10 **SECOND CAUSE OF ACTION**
11 **Discharges of Contaminated Storm Water**
12 **in Violation of Permit Conditions and the Act**
 (Violations of 33 U.S.C. §§ 1311, 1342)

13 72. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
14 fully set forth herein.
15

16 73. Discharge Prohibition A(2) of the General Permit requires that storm water
17 discharges and authorized non-storm water discharges shall not cause or threaten to
18 cause pollution, contamination, or nuisance. Receiving Water Limitations C(1) and
19 C(2) of the General Permit require that storm water discharges and authorized non-
20 storm water discharges shall not adversely impact human health or the environment,
21 and shall not cause or contribute to a violation of any water quality standards contained
22 in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin
23 Plan.
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27 74. Plaintiff is informed and believes, and thereupon alleges, that since at least
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1 March 9, 2009, Defendants have been discharging polluted storm water from the
2 Facility in excess of applicable water quality standards in violation of the Discharge
3 Prohibition A(2) of the General Permit.
4

5 75. During every rain event, storm water flows freely over exposed materials,
6 waste products, and other accumulated pollutants at the Facility, becoming
7 contaminated with pH, aluminum, zinc, copper, lead, and other un-monitored
8 pollutants at levels above applicable water quality standards. The storm water then
9 flows untreated from the Facility into the County of Los Angeles' storm drain system,
10 which discharges to the Los Angeles River.
11
12

13 76. Plaintiff is informed and believes, and thereupon alleges, that these
14 discharges of contaminated storm water are causing or contributing to the violation of
15 the applicable water quality standards in a Statewide Water Quality Control Plan and/or
16 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation
17 C(2) of the General Permit.
18
19

20 77. Plaintiff is informed and believes, and thereupon alleges, that these
21 discharges of contaminated storm water are adversely affecting human health and the
22 environment in violation of Receiving Water Limitation C(1) of the General Permit.
23

24 78. Every day since at least March 9, 2009, that Defendants have discharged
25 and continue to discharge polluted storm water from the Facility in violation of the
26 General Permit is a separate and distinct violation of Section 301(a) of the Act, 33
27
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1 U.S.C. § 1311(a). These violations are ongoing and continuous.

2 **THIRD CAUSE OF ACTION**
3 **Failure to Prepare, Implement, Review, and Update**
4 **an Adequate Storm Water Pollution Prevention Plan**
5 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

6 79. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
7 fully set forth herein.

8 80. Section A and Provision E of the General Permit requires dischargers of
9 storm water associated with industrial activity to develop and implement an adequate
10 SWPPP no later than October 1, 1992.

11 81. Defendants have failed to develop and implement an adequate SWPPP
12 for the Facility. Defendants' ongoing failure to develop and implement an adequate
13 SWPPP for the Facility is evidenced by, *inter alia*, Defendants' outdoor storage of
14 various materials without appropriate best management practices; the continued
15 exposure of significant quantities of various materials to storm water flows; the
16 continued exposure and tracking of waste resulting from the operation of vehicles at the
17 site, including trucks and forklifts; the failure to either treat storm water prior to
18 discharge or to implement effective containment practices; and the continued
19 discharge of storm water pollutants from the Facility at levels in excess of EPA
20 benchmark values and water quality standards.

21 82. Defendants have failed to update the Facility's SWPPP in response to the
22 analytical results of the Facility's storm water monitoring.
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1 83. Each day since March 9, 2009, that Defendants have failed to develop,
2 implement and update an adequate SWPPP for the Facility is a separate and distinct
3 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).
4

5 84. Defendants have been in violation of the SWPPP requirements every day
6 since March 9, 2009. Defendants continue to be in violation of the SWPPP
7 requirements each day that they fail to develop and fully implement an adequate
8 SWPPP for the Facility.
9

10 **FOURTH CAUSE OF ACTION**
11 **Failure to Develop and Implement an**
12 **Adequate Monitoring and Reporting Program**
13 **(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

14 85. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
15 fully set forth herein.

16 86. Section B of the General Permit requires dischargers of storm water
17 associated with industrial activity to have developed and be implementing a
18 monitoring and reporting program (including, *inter alia*, sampling and analysis of
19 discharges) no later than October 1, 1992.
20

21 87. Defendants have failed to develop and implement an adequate
22 monitoring and reporting program for the Facility. Defendants' ongoing failure to
23 develop and implement an adequate monitoring and reporting program are evidenced
24 by its failure to properly record visual observations of storm water discharges at the
25 Facility for evidence of oil sheen, cloudiness, and/or discoloration in storm water
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1 samples it observed on May 6, 2013; November 30, 2012; January 23, 2012;
2 December 7, 2009; and October 13, 2009.

3 88. Each day since March 9, 2009, that Defendants have failed to develop
4 and implement an adequate monitoring and reporting program for the Facility in
5 violation of the General Permit is a separate and distinct violation of the General
6 Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite
7 monitoring and analytical results are ongoing and continuous violations of the Act.
8
9

10 **FIFTH CAUSE OF ACTION**
11 **False Certification of Compliance in Annual Report**
12 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

13 89. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
14 fully set forth herein.

15 90. Defendants have falsely certified compliance with the General Permit in
16 each of the annual reports submitted to the Regional Board since at least May 28,
17 2010.
18

19 91. Each day since at least May 28, 2010, that Defendants have falsely
20 certified compliance with the General Permit is a separate and distinct violation of the
21 General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendants
22 continue to be in violation of the General Permit's certification requirement each day
23 that they maintain the false certification of their compliance with the General Permit.
24
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26

27 **VII. RELIEF REQUESTED**

28 Wherefore, Plaintiff respectfully requests that this Court grant the following

1 relief:

2 a. Declare Defendants to have violated and to be in violation of the Act as
3 alleged herein;
4

5 b. Enjoin Defendants from discharging polluted storm water from the
6 Facility unless authorized by the Permit;
7

8 c. Enjoin Defendants from further violating the substantive and
9 procedural requirements of the Permit;
10

11 d. Order Defendants to immediately implement storm water pollution
12 control and treatment technologies and measures that are equivalent to BAT or BCT
13 and prevent pollutants in the Facility's storm water from contributing to violations of
14 any water quality standards;
15

16 e. Order Defendants to comply with the Permit's monitoring and
17 reporting requirements, including ordering supplemental monitoring to compensate for
18 past monitoring violations;
19

20 f. Order Defendants to prepare a SWPPP consistent with the Permit's
21 requirements and implement procedures to regularly review and update the SWPPP;
22

23 g. Order Defendants to provide Plaintiff with reports documenting the
24 quality and quantity of their discharges to waters of the United States and their efforts
25 to comply with the Act and the Court's orders;
26

27 h. Order Defendants to pay civil penalties of up to \$37,500 per day per
28

1 violation for each violation of the Act pursuant to Sections 309(d) and 505(a) of the
2 Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

3 i. Order Defendants to take appropriate actions to restore the quality of
4 waters impaired or adversely affected by their activities;

6 j. Award Plaintiff's costs (including reasonable investigative, attorney,
7 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
8 § 1365(d); and,

10 k. Award any such other and further relief as this Court may deem
11 appropriate.
12

13
14 Dated: May 9, 2014

Respectfully submitted,
LOZEAU DRURY LLP

17 By: /s/ Douglas Chermak
18 Douglas J. Chermak
19 Attorneys for Plaintiff
20 CALIFORNIA COMMUNITIES AGAINST
21 TOXICS
22
23
24
25
26
27
28

EXHIBIT A



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F 510.836.4205

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doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 28, 2014

Kevin James, President
Arleen Taylor, Executive Officer
City of Los Angeles
Board of Public Works
200 North Spring Street, Room 361
Los Angeles, CA 90012-4801
Mail Stop 464

Paul C. Blount, Assistant Division
Manager
Paul LeBel, Superintendent
City of Los Angeles
Bureau of Sanitation
Central LA Recycling & Transfer Station
2201 E. Washington Blvd.
Los Angeles, CA 90021

Enrique C. Zaldivar, Director
Alex E. Helou, Solid Resources Management
Assistant Director
Khalil M. Gharios, Division Manager,
Solid Resources Processing & Construction
Jonathan B. Zari, Acting Senior Environmental
Engineer and Assistant Division Manager
City of Los Angeles
Bureau of Sanitation
1149 S. Broadway St., Suite 500
Los Angeles, CA 90015

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Messrs James, Zaldivar, Helou, Gharios, Zari, Blount, and LeBel; and Ms. Taylor:

I am writing on behalf of California Communities Against Toxics ("CCAT") in regard to violations of the Clean Water Act ("Act") that CCAT believes are occurring at the City of Los Angeles' Department of Public Works' Bureau of Sanitation's facility, Central Los Angeles Recycling & Transfer Station, located at 2201 E. Washington Boulevard in Los Angeles, California ("Facility"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has

Notice of Violations and Intent to File Suit

members living in the community adjacent to the Facility and the Los Angeles River Watershed. CCAT and its members are deeply concerned with protecting the environment in and around their communities, including the Los Angeles River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "CLARTS").

This letter addresses CLARTS' unlawful discharge of pollutants from the Facility through the Los Angeles County municipal storm sewer system into the Los Angeles River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit"). The WDID identification number for the Facility listed on documents submitted to the Regional Board is 419I018974. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, CLARTS is hereby placed on formal notice by CCAT that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAT intends to file suit in federal court against CLARTS under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On or about August 9, 2004, CLARTS filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI, CLARTS has certified that the Facility is classified under SIC Codes 4212 ("vehicle/equipment maintenance") and 5093 ("transfer/processing of scrap/waste"). CLARTS has also indicated on its 2009-2010 and 2010-2011 Annual Reports that the Facility is subject to SIC Code 4953. The Facility discharges storm water from its 9.14 acre industrial site from at least two storm water outfalls. The outfalls discharge into Los Angeles County's municipal storm sewer system, which discharges into the Los Angeles River.

The Regional Board has identified beneficial uses of the Los Angeles River Watershed and established water quality standards for it in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact